

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. 4:11CR74 MAC/DDB
	§	
JOHNNY CLAYTON SHANKS	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on March 12, 2015 to determine whether Defendant violated his supervised release. Defendant was represented by Robert Arrambide. The Government was represented by Andy Williams.

On September 26, 2012, Defendant was sentenced by the Honorable Marcia A. Crone, United States District Judge, to a sentence of 27 months imprisonment followed by a 3-year term of supervised release, for the offense of Felon in Possession of a Firearm. Defendant began his term of supervision on May 15, 2013.

On November 21, 2014, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (the "Petition") (Dkt. 48). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall refrain from any unlawful use of a controlled substance; (2) Defendant shall refrain from excessive use of alcohol and shall not

purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician; (3) Defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month; (4) Defendant shall notify the probation officer at least ten days prior to any change in residence or employment; and (5) Defendant shall pay a fine in the amount of \$4,000, to be paid on a monthly basis at a rate of at least 10% of Defendant's gross monthly income.

The Petition alleges that Defendant committed the following violations: (1) On October 7, 2014, Defendant submitted a urine specimen which tested positive for methamphetamines and hydrocodone/hydromorphone. Said results were confirmed through laboratory testing; (2) Defendant failed to report to the U.S. Probation Office as instructed on October 23; October 27; November 3; and November 10, 2014; (3) On October 22, 2014, Defendant reported that he was no longer employed by Maverick Towing, yet advised that he attained new employment. As of November 21, 2014, Defendant failed to provide any information regarding his new employment source; (4) Since commencing supervision, Defendant failed to pay at least 10% of his gross monthly income when making payments toward the outstanding fine balance; and (5) Defendant failed to make payments as instructed the months of June, September, October and November 2013, and September and October 2014. An outstanding fine balance remains of \$3,580.00.

At the hearing, Defendant entered a plea of true to allegations one and two of the Petition. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of his supervised release.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the March 12, 2015 hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of twelve months and one day, with no supervised release to follow, and that Defendant pay the remaining fine balance of \$3,580.00. The Court further recommends that Defendant's sentence be carried out at FCI Fort Worth, if appropriate.

SIGNED this 16th day of March, 2015.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE